

REMARKS

Applicant's representative thanks the Examiner for the time spent during an in-person interview on March 28, 2006 in which claims 1, 3-8, and 26 were discussed. The results of the interview are provided below in the remarks addressing the respective claims.

Claims 2, and 9-25 have been cancelled without prejudice or disclaimer. New claims 27-38 have been added. Claims 1 and 26 have been amended and 1, 3-8, 26-38 are currently pending. Reconsideration of the pending claims in view of the foregoing amendments and following remarks is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

The Office Action stated that claim 26 stands rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the language "a registration feature on the sheet of the thermoformable plastic that is associated with the plastic article and separate from the plastic article" was deemed confusing. Applicant has amended claim 26 with the intent to cure the cited problem and believes claim 26 is definite in its amended form.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

The Office Action stated that claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Forthmann in view of Obara or Barrett, and in further view of Brown. To establish a *prima facie* case of obviousness under section 103, three basic criteria must be met. *See* MPEP § 2143. First, there must be some suggestion or

motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine the reference teachings. Second, there must be some reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the Applicant's disclosure. *Id. citing In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991). Moreover, it is improper to combine references where the references teach away from their combination. *See* MPEP § 2143.01. The Office Action's proposed references do not meet the above criteria with respect to the subject matter of the claims. As such, the rejection is respectfully traversed.

Amended claim 1 features a trim press having a die build up plate that is mounted to a first platen, a striker plate that is mounted to a second platen, wherein the trim press moves the first platen such that the trim press travels between a load position in which a cutting edge is spaced from the striker plate and a cutting position in which the cutting edge confronts the striker plate, a die for cutting a thermoformed plastic article from a sheet of thermoformable plastic that rests upon the striker plate. A knife element is connected to the die build up plate that includes a cutting edge for severing the thermoformable plastic sheet when the knife element confronts the striker plate. A band heater is adhered to, and circumscribes an outer perimeter of the knife element for providing substantially uniform heat to the knife element.

The combination of Forthmann, Obara, Barrett, and Brown fail to teach or suggest the features of amended claim 1. For example, none of the above-mentioned patents

teach or suggest a band heater that is adhered to and circumscribes an outer perimeter of a knife element. The Office Action agrees that Forthmann lacks such a teaching. *See* Office Action at page 3. The addition of Obara, Barrett and Brown fail to cure such deficiency. Nowhere can Applicant's representative find any mention of a heater in Barrett. Similarly, nowhere can Applicant's representative find an indication that the heating element is adhered to the punch of Obara. The Obara figures are void of any teaching of a heater that circumscribes the outer perimeter of a knife element. Finally, Brown appears to teach heaters (50) being attached to only two sides of rod connections (40) and not for connecting to any type of tooling. In fact, Brown states that the tooling is not shown in the disclosure. *See* Brown Col. 4, Lines 7-8. Having the heater in direct contact and surrounding the outer perimeter of the knife allows for more control over the amount of heat applied to the knife while it also prevents interference with details internal to the knife, such as ejectors or internal knife cutting blades.

During the in-person interview the Examiner stated that amended claim 1 as stated herein appeared to overcome all rejections addressed to claim 1. As a result and for at least the reasons stated above, Applicant's representative respectfully submits that amended claim 1 is in condition for allowance. Claims 3-8, and 26 depend from amended claim 1 and are patentably distinct for the same reasons as stated for claim 1 and in view of their additional features. Therefore, claims 3-8, and 26 are in condition for allowance.

The Office Action stated that claims 1 and 3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Harcuba in view of Obara or Barrett, and in further view of Brown. The features of amended claim 1 are presented above. The addition of Harcuba with the patents previously addressed fails to render amended claim 1 obvious

for at least the reasons stated above, and the Office Action's statement that Harcuba does not teach that the heater band is adhered to the knife element. *See* Office Action at page 5. Accordingly, amended claim 1 along with its dependent claims 3-8 and 26 are respectfully in condition for allowance.

The Office Action stated that claims 1, 4, and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Joep in view of Obara or Barrett, and in further view of Brown. The addition of Joep with the patents previously addressed fails to render amended claim 1 obvious for at least the reasons stated above, and the Office Action's statement that Joep does not teach that the heater band is adhered to the knife element. *See* Office Action at page 7. Accordingly, amended claim 1 along with its dependent claims 3-8 and 26 are respectfully in condition for allowance.

New claims 27-38 have been added and are believed to be patentable over the patents cited for at least the reasons articulated above. Applicant respectfully requests a notice allowing new claims 27-38.

The foregoing, claims 1, 3-8, and 26-38 are in condition for allowance. A favorable response to this amendment in the form of a Notice of Allowance is hereby solicited. Applicant's representative requests that the Examiner contact the undersigned if there is allowable subject matter in the dependent claims. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 23-0630 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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